JUDICIAL

(From the report of Mr. Salim Al Arayedh, Superintendent, Judicial Department)

The number of cases of all kinds which were filed in the Senior Court, consisting of Shaikh Daij bin Hamed and Shaikh Ali bin Ahmed, sitting separately except on one day of the week when both sit together with the Adviser, was 1158. This was 258 more than in the previous year. The cases consisted of 451 civil suits of which 15 related to administration of estates, 430 criminal charges, including a number of trivial matters which would not usually be dealt with by a senior court, and 227 land registration cases. The increase over the previous year was mainly due to the court having acquired jurisdiction over nationals of other Gulf States. Of these cases 167 were civil suits. 691

In all the courts civil suits predominate and a high proportion of them are concerned with immovable property. The high value of land, especially in the towns, has made the public more conscious of the importance of boundaries and the worth of property. There has been much litigation over inheritance and shares in houses and gardens. Heirs in estates who in the past were content to live together in one building now apply to the courts for an order to divide the property so that they may sell their shares in it. Because such high prices can be obtained for land anybody who can claim even a small share in a building or a garden takes his case to the courts. 691 423 428

It has been noticed in the Appeal Court too that questions of land ownership and boundaries have predominated.

There were no important civil cases and, apart from traffic offences, no serious crimes. A man stabbed his brother during a quarrel, inflicting "grievous hurt" for which he was sentenced to four years rigorous imprisonment and in two fatal traffic accidents drivers of vehicles were sentenced to two years rigorous imprisonment and to pay fines of Rs. 5,000/-. In certain traffic offences the occupants of cars ran away which suggests that they were probably under the influence of liquor when the accidents occurred. 681 697

Fines amounting to Rs. 7,623/- were paid into court and the sum collected in court fees was Rs. 43,599.

In the small courts 1,964 new cases were filed, 1,668 cases were disposed of and at the end of the year 692 cases were pending. The courts issued 506 execution orders leaving 155 to be dealt with at the end of the year. 691

The Sunni and Shia Courts heard 269 and 172 cases respectively leaving 119 and 51 cases pending. Out of 129 cases which were referred to the Majlis Tajara for an opinion 94 cases were returned to the courts and 35 cases were pending.

The Sunni Shera Court did not work smoothly during the year owing to differences of opinion among the three Kadis, two of them being of the Maliki and one of the Shafi Sect. At one time all cases were judged according to the Maliki tenets, this being the sect of the Ruling Family, but some years ago the Government issued a direction to the court according to which if the plaintiff, or both parties, followed the Shafi doctrine then their case should be tried according to Shafi law. 692 693

There has also been criticism of the Majlis Tajara which consists of a group of leading merchants appointed by the Government who give opinions on commercial matters and local custom. They are busy men and they receive no pay and when it is inconvenient for them to attend the court, and it is frequently inconvenient, they do not appear. Often less than half of the number are present. In addition, they are closely connected either as competitors or partners and it is sometimes difficult for them to give impartial opinion.

The Shia Appeal Kadi gave judgment in 18 cases, the Senior Appeal Court heard 27 cases and the Junior Appeal Court dealt with 28 cases.

693
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Among a small but vociferous section of the public there is a demand for a Code. This would be of great help to the Magistrates in the Court but as most of the cases which they hear are civil cases some sort of civil code is required even more than a criminal code. There is also criticism of the lack of legal qualifications of the magistrates, who are members of the Ruling Family. None of them have had legal training though some of them have had long experience of local court work. This is a relic of the days when the chief men of a tribe used to dispense justice to the members of the tribe. In the past the arrangement worked well enough but times have changed and the type of people who now appear in court are better educated, more sophisticated and more critical than they used to be.

POLICE AND PUBLIC SECURITY

(From the report of Shaikh Khalifah bin Mohamed AlKhalifah, Director of Police and Public Security)

625

Strength. At the end of the year the strength of the Police and Natur forces was as follows:

Superintendents	3
Inspectors	Nil
Sub-Inspectors	3
N.C.O's and Men	299
Followers, Clerks, Boatmen, etc.	46
Armed Naturs	261

Three Police Inspectors were promoted to Superintendents and the post of the State Superintendent of Police was changed to Director of Police and Public Security.

During the year 53 recruits were enlisted, 30 men were granted their discharge, 2 were dismissed, 4 deserted and one died. The Naturs were increased by 7 men.

Duties. There was no change in the regular police duties which, as before, absorbed about half of the force. These duties included police posts, standing guards, police station personnel, traffic and jail duties and land and sea patrols. Musketry courses were fired by 271 N.C.O's and Men and by 4 Officers.

The camel section, which eventually became a picturesque but expensive survival, was done away with ; 11 camels were sold and one died and the men were posted to other sections. Patrol work previously done by the camel section can be carried out more economically and more efficiently by car patrols.

The health of the Police was good, the sick parade average was 5.7 per cent. against 6.2 per cent. in the previous year ; 44 men were in-patients at the Government Hospital as against 52 in 1371.

An N.C.O. with many years service in the force, Naik Juma Ali Taimoor, was run over by a car, when he was sitting outside a shop, and killed.

Earned leave was taken by 80 men of the State Police, most of them spent their leave in Bahrain ; 71 Naturs took earned leave.

Pay, rations and allowances were the same as in 1371.

Stores. Among the stores which were purchased during the year were blankets, boots, saddlery and spares for guns and rifles. Brass numerals to be worn by every N.C.O. and policeman were imported from the United Kingdom. In the past no numbers were worn.

5 Bahrain G-5 (1926-1937) 1937 MZ2 Bahrain MZ2

JUDICIAL

692
693

The impartial administration of justice in the Bahrain courts is, in my opinion, the most difficult problem which is dealt with by the Government. The impartiality of magistrates and members of various courts is constantly liable to be affected by causes outside the court. Too often claims are not decided only on the merits of the case but partly by the amount of outside interest which the parties can bring to bear on members of the courts. The reason for such interference in cases is chiefly due to the fondness of the local inhabitants of Bahrain of concerning themselves in their neighbours' affairs: people who are not really affected by a case frequently involve themselves in it with the laudable desire to make a compromise, and if the case is already being heard, such action causes complications. When, as is often the case, the intercederers are the relations of the magistrate it is difficult for the magistrates to disregard outside pressure. Other matters which make the work of the courts difficult are the jealousy which the Shera courts feel towards the civil courts, the sectarial differences between the Sunnis and the Shias, and the fact that because Bahrain is such a small place—especially in the courts such as the Meglis Tajara, whose members are a number of local merchants—the parties in most of the cases are usually connected with one or more of the members of the court either by relationship or through commercial or other channels. Another practice which affects the administration of justice is the ingrained habit of the Arabs of Bahrain of visiting the Ruler themselves to complain about the judgments in his courts instead of making an appeal to him in the prescribed manner. Perhaps, however, it is not surprising that the people of Bahrain have not yet become legally minded, as regular Bahrain courts have only existed for a little more than ten years.

Institution of Courts.

The first regular Bahrain court to be instituted was the Joint Court, presided over by the Ruler and the Political Agent, to deal with cases brought by foreign subjects against Bahrain nationals. In 1926 the Bahrain Court was created to judge cases between Bahrain subjects. In the beginning it consisted of myself and Shaikh Mohammed bin Abdul Rahman, a somewhat obscure member of the Ruling Family. There was also a court known as the Meglis Urfi, which consisted of three or four local merchants. This court, in one form or another, had been in existence for many years, and in 1926 it acted in an advisory capacity in cases where questions of local practice or commercial custom were involved. The Shera courts consisted of the Sunni and the Shia Kadhis. The former, Shaikh Jasim, was over eighty years old and quite blind, and the latter, Shaikh Khalaf, was not much younger; both these Kadis were more influential than any of their predecessors have been. They had no regular courts or records, and heard cases in their houses or in mosques. Divine cases were decided by the Political Agent or by the Bahrain Court.

The Bahrain Court.

The Bahrain Court is the highest court of the Bahrain Government, from whose decisions appeal lies only to the Ruler himself. In the last ten years it has seen various changes. In 1926 (1344-45), owing to a family dispute, Shaikh Mohammed bin Abdul Rahman gave up court work and his place was taken by Shaikh Sulman bin Hamed, who sat on the court, intermittently, for about eight years. On several occasions he retired from the court for some months. During the summer of 1934 he sat alone on the court while I was absent on leave, and in the autumn of that year a certain faction of the Shia Baharna of Manamah organised a disturbance and made serious complaints about various different matters, including the administration of justice by the Bahrain Court. Shaikh Sulman again retired from the Court, and since then he has shown no inclination to return to it. In 1935 Shaikh Rashid bin Mohammed and Shaikh Abdulla bin Shaikh Hamed were appointed as magistrates on the Bahrain Court, both having sat for several years on other courts, and since then they have occupied this post, an arrangement which seems to be generally satisfactory. They deal with most of the cases themselves, but for the hearing of appeals from lower courts and certain important cases I join them in the court.

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The following different kinds of cases are tried by the Bahrain court; usually, about 1,400 cases are heard during the year.

5: Bahrain G-5 (1926-1937) 1937 MZ2 Bahrain MZ2

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681
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1. Criminal Cases, including capital offences, except cases of a trivial nature which are heard by the Small Court, are tried by the Bahrain Court. Death sentences are submitted to the Ruler for confirmation before promulgation.

2. Civil Cases, including estate cases, bankruptcy, inheritance, and divorce, are heard by the Bahrain Court, but the divorce and inheritance claims are passed on to the Shera Courts for judgment. Several very important cases have been settled by the Bahrain Court during the last ten years, including the Siadi case, in which the amount involved was over ten lacs.

[698]

3. Diving Cases. These cases are frequently referred to the Meglis Tujara, which has a special committee who are experts in diving law.

4. Land Cases. Land cases are very numerous and often very complicated, but in time they should decrease as by degrees more property is being registered in the Land Department, which reduces disputes. These cases include boundary disputes, water rights, Wakf claims, and rights of way. The local custom regarding the different divisions of water is in itself a complicated affair, and it has never been embodied in any regulation or code. All sales are registered after publication of proclamation calling on persons having a claim to the property to make it within a given time; but in addition to the proclamation, every sale or voluntary registration of ownership is submitted to the Bahrain Court after the proclamation has expired, and the court verifies, by hearing witnesses, the statement of the seller, with special regard to the interest of any women or minors. Although this may appear to be a cumbersome procedure, its value has been frequently proved by the court discovering that property of women or minors is being disposed of without the knowledge of the owners. Sales by foreigners, as well as by Bahrain subjects, pass through the Bahrain Court.

5. Fish-Trap Cases. These cases are numerous and are decided according to a local code governing the use of fish-traps. The rules of fish-trap ownership have not yet been recorded, but they are generally known to persons connected with this industry. The court usually appoints a committee to report on cases, but this practice, on the whole, is not satisfactory, as members of the committees are too susceptible to outside influence.

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The Bahrain Small Court. The court was instituted in 1927 (1346) to relieve the Bahrain Court of some of its work. In the beginning it dealt with civil cases in which the amount concerned was not more than Rs 100/-, but in 1935 its powers were extended and it now gives judgment in cases up to Rs 400/- and also hears minor criminal cases, but not diving cases. When the court was first started it was presided over by the Assistant Adviser, Captain Parke, and the Amir of Muharraq, Shaikh Mohammed bin Jabr.

Shera Court, Sunni. In 1926 it became evident that the Sunni Kadi, Shaikh Jasim, was no longer capable of carrying out his duties on account of his age and blindness. It was found that dishonest persons were able to obtain his seal and used it for their own purposes. The Government appointed three Sunni Alims, Shaikh Abdul Latif bin Mohammed Al-Saad of Manamah, Shaikh Abdul Latif bin Ali Al-Joudar of Muharraq, and Shaikh Abdul Latif bin Mahmood of Hedd as Kadis, and from that time they have sat together in the Sunni Shera Court. It was found that three Kadis on one bench was more satisfactory than a single Kadi. Their work, on the whole, has been satisfactory, but the public complain, with justification, of the slowness of the court. Simple cases are often before the court for over a year before a judgment is delivered, and the court usually has between two and three hundred pending cases on hand.

Shera Court, Shia. There have been many changes in the Shia Court during the last ten years. In 1926, Shaikh Khalaf was the only Shia Kadi. He had been Kadi for many years, although he had twice been dismissed for irregular practices, but each time, after an interval, he returned to power. His influence was very great; he was regarded as almost divine. In 1926, charges of accepting bribes and misappropriation were brought against him and proved in the court. He was finally dismissed and ordered to leave Bahrain. He retired to Iraq for some years, but eventually returned to Bahrain, where he is now living.

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The Government then appointed Seyed Adhnan of Jedhafs as Shia Kadi. He was a progressive young man of a well-known family, with more education than most of the Shia Alims. He was interested in education and had travelled abroad. Through his influence the Government was able to start the Shia Wakf Department, and he himself compiled a list of the Wakf property in Bahrain. Unfortunately he died suddenly in 1928.

For some months no successor was appointed, but finally the Government chose Shaikh Ali bin Hassan al-Mousa and Shaikh Abdulla bin Mohammed Saleh; the former was appointed Kadi for the villages and the latter as Kadi of Manamah. Shaikh Ali bin Hassan still retains his position and is one of the three Shia Kadis who are now officiating.

Shaikh Abdulla acted as Kadi until 1935, when he was dismissed from his post in disgrace, having been prosecuted on a charge of criminal misappropriation. While he occupied the post of Kadi he was helpful and intelligent, but he became a rich man during the period of his office by stealing the property of orphans and minors.

After the dismissal of Shaikh Abdulla, Shaikh Ali bin Hassan was transferred to Manamah and two more Kadis were appointed, Shaikh Ali bin Jaffar and Shaikh Baqer al-Asfur. This arrangement is not very satisfactory as the three Kadis are all on bad terms with each other and the local political parties among the Baharna continually stir up trouble and play off the Kadis against each other in order to further their personal interests.

It is not surprising that the prestige and influence of the Shia Kadis has declined to a remarkable extent during the last ten years. The Kadis in the past, whatever their faults, had a tremendous influence over the Shia community; now this influence only exists over a few of the country people. The decline of influence is due partly to the change in the mental outlook of the young men in Manamah, but the main cause is the dishonest and unsuitable behaviour of certain of the Kadis.

These conditions will continue until men can be appointed as Kadis who are properly educated and versed in Shera law and legal procedure. The present Kadis, both Shia and Sunni, possess less general education than the present generation of young Arabs, and even their knowledge of the Shera law is, in the case of some of them, very slight. The only way to improve the status and reputation of the Shera Courts is for the Government to arrange for the education abroad of some suitable young men who will eventually become Kadis. The Government is at present trying to arrange for the education of the son of Seyd Adnan with this end in view.

The Mejlis Tajara and Diving Court. The Mejlis Tajara is probably the oldest judicial institution in Bahrain, excepting the Shera Courts. Originally it was known as the Mejlis al Urfi, and consisted of two or three local merchants who dealt with commercial cases. At that time it was not connected with the Salafieh al Ghoos, or Diving Court, which was a notorious institution consisting of one or two old pearl merchants whose judgments were invariably in favour of the merchants and Nakhudas and against the divers. This diving court was abolished at the time of the reforms, and for some years it ceased to exist. About ten years ago the Mejlis al Urfi was put on a different footing, and a shaikh of the Ruling Family was appointed as President of the Mejlis. Previously there had been no president. A year or two later further changes were made; the number of members was increased from eleven to twenty-two, divided into two committees, of which one committee sits once every fortnight. At the request of members, the Mejlis became known as the Mejlis Tajara, and on each of the two councils two or three members were appointed who belonged to the diving industry and were capable of dealing with diving cases. Thus the old diving court was amalgamated into the Mejlis Tajara. Another innovation at this time was the introduction of foreign members on the committee which had previously consisted exclusively of Bahrain subjects. Shaikh Rashid bin Mohammed al Khalifah was for many years President of the court until about a year ago, when he was appointed to the Bahrain Court and his place was taken by Shaikh Mohammed, the eldest son of Shaikh Abdulla bin Isa. The court is governed by regular rules, the President has the casting vote in cases of a divided opinion, and occasionally in important cases all the twenty-two members appear together. The increase in the members was made to ensure more regular attendance. The members, all of

them local merchants and many of them members of the two municipal councils, found it impossible to give up a whole morning every week to this voluntary work, but now that they only sit once every fortnight their attendance is more regular. 671 692

The Mejlis Tajara deals with cases both from Bahrain courts and from the Agency courts. It relieves the other courts of much work and is frequently successful in effecting compromises between parties, which saves time and trouble. In its present form the Mejlis Tajara is a satisfactory institution. 693

Small Mixed Court. This court was started in 1928 and deals with civil cases up to Rs 400/-. The Bahrain magistrate, a junior member of the Ruling Family, sits with a representative of the Political Agent, usually the Indian Assistant. This court has been a useful training ground for some of the younger shaikhs who, after working in it for some years, have been promoted to more responsible positions.

Laws and Codes. At present, except in the Shera courts, which decide cases according to Islamic law, none of the Bahrain courts follow any regular law or code. In important criminal cases the Bahrain Court is guided by the Sudan Penal Code, which is almost identical to the Indian Penal Code, but in minor criminal cases it gives sentences which it considers suitable and compatible with local opinions and conditions. Frequently these punishments differ very greatly to those which would be inflicted on foreigners found guilty of exactly the same offences who are tried and sentenced according to the Indian Penal Code. As an example of this, it is the practice of the Bahrain Court to sentence any person who contravenes the Bahrain liquor regulation, for instance, by being in possession of liquor, to undergo eight months' hard labour in the case of a first offence. 671

Civil cases are judged according to local custom and practice and, in cases which are applicable, especially in land disputes and diving cases, according to the various Government proclamations which are issued from time to time. Unfortunately, these proclamations have never been coded and not all the public are conversant with them.

Until about two years ago the practice of the courts of dealing with cases without a regular code was not objected to by the public, but during the agitation raised by a small faction of the Mansimah Shias in 1935 a demand was made for a code of laws to be adopted by the Bahrain courts. A committee was appointed by the Government consisting of Shaikh Abdulla bin Shaikh Hamad and two Arabs and two Baharna, assisted by the clerk of the courts. It was intended that they should first codify all the existing proclamations, but it soon became apparent that the proclamations themselves, with the exception of the Diving Laws and a few other detailed regulations such as land registration rules, etc., were inadequate even to form a basis of a simple code for the courts. The committee have been meeting once a week for over a year and they have accomplished much valuable work, but it will probably take them another year to complete their task. The code which they are drafting refers only to civil matters such as rules regarding fishing rights, court rules, etc., etc., and it is not proposed that they should compose a criminal code. If a criminal code is necessary, and in my opinion it is not, it would save time and trouble if the Sudan Penal Code was altered to suit local conditions and then adopted. It has the advantage of being available in Arabic.

Police Regulations. The Bahrain police are not subject to or instructed in any regular form of regulations. As 90% of them are illiterate, it would be difficult to make them conversant with such regulations as the Indian Code of Criminal Procedure, but the police deal with an ever-increasing number of cases in which foreigners, including Europeans, Americans, and Indians, are involved. Only one of the N.C.O.'s has any knowledge of Indian rules and regulations affecting police cases and prosecutions, and as the courts in which foreigners are normally charged with criminal offences are governed by the Indian regulations, the position of the police is liable to become increasingly difficult. The Bahrain courts do not allow any foreigners to appear before the courts as pleaders or Wakils, but if in the future any professional Indian pleaders should appear in cases connected with the Bahrain police, he would probably be able to pick holes in the method of presenting cases. 671 693 695